

1 If we could just stop with those three,
2 given your other rulings, Your Honor, I understand
3 that the objection to 49 and 50 would be essentially
4 the same, that they're a pleading in the case.

5 The one difference is that Gulf Power's
6 description of evidence, Exhibit 50, we've used as the
7 touchstone for what this case is about because the
8 HDO, which is Exhibit 51 which governs the proceedings
9 in this case, did say that it was giving Gulf the
10 opportunity to submit the evidence outlined in the
11 description of evidence.

12 And since we think that that is a very
13 relevant aspect to what the proceeding is about, if
14 they should be both admitted, 50 and 51, I'd be
15 willing to withdraw on 49 since that was the advocacy
16 piece by Gulf petitioning for reconsideration.

17 JUDGE SIPPEL: Well, let me hear from Mr.
18 Langley on the petition for reconsideration. Well,
19 no, I'm sorry. I want to hear on the description of
20 evidence.

21 MR. LANGLEY: Well, Your Honor, that was
22 the document that the Bureau asked us to submit very

1 early on, right after, in fact, the Bureau decision in
2 May of 2003. It may have been later that fall saying,
3 well, what type of evidence do you anticipate you
4 would submit in a hearing if we had one, and that's
5 what we described in there.

6 Again, those were lawyers' statements, but
7 more importantly, we're now putting the actual
8 evidence into the record. So, I mean, what we
9 described in December of 2003 or January of 2004 is
10 really not important compared to what we are now
11 offering here today, what we spent the first half of
12 the day doing, offering in our case-in-chief.

13 JUDGE SIPPEL: You know, again, I've heard
14 enough on this, too. We've been over the description
15 of evidence in various ways, shapes and forms coming
16 up since this case has been designated for hearing,
17 and I agree with Mr. Langley that the case is now set.
18 The case that this is going to be tried is now set as
19 far as the description of the evidence is concerned in
20 a very graphic form, and this document just has the
21 secondary considerations at best, that is, the
22 description of evidence, and it's just likely to open

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the door to wasted time, and as a matter of discretion
2 I'm going to reject it.

3 And what about the hearing designation
4 order? That's Number 51. Why do we need that in
5 evidence?

6 MR. SEIVER: Well, Your Honor, we were
7 going to use that in our legal briefs, in our proposed
8 findings and conclusions, and what I'd be willing to
9 do is going up through 54, if Your Honor advises us
10 that we may continue to rely on these particular
11 documents when we're making proposed findings and
12 conclusions, I'd be happy to have them not be
13 admitted. I'll withdraw my request that they be
14 admitted into evidence.

15 JUDGE SIPPEL: Is there any objection?
16 What are you looking for me from a commitment? What
17 am I supposed to commit to?

18 MR. SEIVER: No, I'm sorry, Your Honor.
19 It's just that I think you had said before on some
20 other documents that were rejected that they still
21 could be used if not on cross examination at least in
22 the proposed findings and conclusions because we

1 believe that whatever is said in the description of
2 evidence and obviously what the HDO says, the hearing
3 designation order, that we're going to argue strongly
4 their interrelationship to the evidence in the case.

5 JUDGE SIPPEL: Well, certainly the hearing
6 designation order is prime source material for
7 purposes of proposed findings. Proposed findings can
8 be based on the record, and certainly the hearing
9 designation order is part of the record, but we don't
10 need to make it a part of the hearing record, which is
11 the evidentiary part of it.

12 The evidentiary part of the proposed
13 findings of fact is the evidentiary record in this
14 proceeding, but you have got a record such as the
15 hearing designation order similar to a complaint in a
16 lawsuit that as part of the record at appropriate
17 points it can be referred to.

18 MR. SEIVER: Yes, Your Honor.

19 JUDGE SIPPEL: But not findings. I mean,
20 you're not going to get a factual finding out of a
21 hearing designation order.

22 MR. SEIVER: I understand, Your Honor, but

1 for example, when Mr. Dunn is on the stand and, you
2 know, if we examine him on his affidavit and I think
3 I want to have the opportunity to ask him about this
4 description of evidence, to the extent that he
5 supplied it or what he has done that complies with it
6 and how his testimony works with the hearing
7 designation order because I think that explanation
8 would be illuminating.

9 So as long as we can use these documents
10 in our cross examination, I have no problem.

11 JUDGE SIPPEL: Yes, and Mr. Dunn, if you
12 can show him a segment or whatnot of the statement of
13 evidence, the description of the evidence and he can
14 respond to it because he has personal knowledge of it,
15 and yes, you would be able to cross examine him on it,
16 limited, again. We're not here to --

17 MR. SEIVER: Very well.

18 JUDGE SIPPEL: We're not here to test the
19 proffer of that evidence, but on the other hand,
20 insofar as it relates to the witness' credibility,
21 yes.

22 So where are we on this now? We're left

1 with a rejected 48(a). You've got 48. It has been
2 received. I'm now left with 49 through 54; is that
3 correct?

4 MR. SEIVER: Yes, Your Honor.

5 JUDGE SIPPEL: Okay, and I'm going to
6 identify these, permit these to be identified as
7 Complainants' proposed Exhibits 49 through 54, and for
8 reasons stated they are rejected as evidence in this
9 case.

10 (Whereupon, the documents
11 referred to were marked as
12 Complainants' Exhibit Nos. 49
13 through 54 for identification and
14 were rejected from evidence.)

15 JUDGE SIPPEL: Now, your next is 55.

16 MR. SEIVER: Yes, Your Honor, 55, and I
17 just want to make sure. Fifty-five we'll withdraw.
18 Those are Complainants' responses to Gulf Power's
19 first set of interrogatories. However, Gulf Power's
20 responses to our interrogatories, Exhibit 56, as well
21 as their response to request for production of
22 documents, the supplemental responses, the response to

1 the second request -- that's 56, 57, 58 and 59 -- we
2 believe are substantive evidence as they are, even
3 though they are prepared by the lawyers, that they are
4 the responses under oath by the party.

5 JUDGE SIPPEL: So 55 is being withdrawn;
6 is that correct?

7 MR. SEIVER: That is correct, Your Honor.

8 JUDGE SIPPEL: All right. Tab 55 is a
9 pleading entitled Complainants' Responses to Gulf
10 Power's First Set of Interrogatories. That is
11 identified as Complainants' Exhibit 55 and is
12 withdrawn as evidence.

13 (Whereupon, the document referred
14 to was marked as Complainants'
15 Exhibit No. 55 for identification
16 and was withdrawn from evidence.)

17 JUDGE SIPPEL: That leaves 56. Fifty-six
18 is identified as Gulf Power's Responses to
19 Complainants' First Set of Interrogatories, identified
20 as Complainants' No. 56. Is there any objection to
21 receiving that, Mr. Campbell?

22 MR. CAMPBELL: Your Honor, it's a little

1 bit different because this is a bench trial, but the
2 typical black letter rule on interrogatory responses
3 is that to the extent that there is a witness who is
4 identified as providing a response to an
5 interrogatory, that is sworn and can come into
6 evidence.

7 To the extent that there are objections
8 lodged and an interrogatory perhaps not responded to
9 because of that objection, it does not come into
10 evidence. That is attorney argument. That is the
11 subject of a discovery fight, and it is resolved and
12 you either get an answer to the interrogatory or you
13 do not get an answer to the interrogatory.

14 Mr. Seiver unfortunately is grouping
15 interrogatory responses also with respect for
16 production responses. Request for production
17 responses are attorney statement, attorney arguments.
18 They do not come into evidence.

19 The goal of a request for production is to
20 get documents, source documents, that then themselves
21 come into evidence, which has happened here this
22 morning, in the form of five binders from us and three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 binders from them. So our objections are to anything
2 that is not an interrogatory response that has a
3 witness identified as responding to a question from
4 the Complainants.

5 Responses to requests for productions,
6 supplemental responses to requests for productions,
7 and as we get on further down here some discovery
8 fights, those do not come into evidence under the
9 typical rules.

10 JUDGE SIPPEL: Well, let's take it one
11 step at a time. We're on Tab 56, which is Gulf
12 Power's responses to interrogatories. Are there any
13 answers in there that you can pinpoint to a witness,
14 Mr. Seiver?

15 MR. SEIVER: Well, Your Honor, the ones
16 that are answered, it's signed. The document is -- we
17 don't have the signed version, but it has Mr. Bowen
18 who is going to be a witness at the hearing as the
19 signatory, I presume, for the company for the answers.

20 JUDGE SIPPEL: I see. Ben Bowen, Gulf
21 Power.

22 MR. SEIVER: Yes, Your Honor. I would

1 expect that the responses are properly authenticated
2 and put to Mr. Bowen.

3 JUDGE SIPPEL: Mr. Campbell?

4 MR. CAMPBELL: We agree with that. The
5 document, however, contains much more than that, and
6 that's the problem. You have, for example, on page 8,
7 Question No. 15, rolling over to page 9; you have a
8 question and an objection.

9 MR. SEIVER: Well, then there's no answer
10 for me to cross examine him about then on that, and if
11 what they want is -- I'll agree that the objections
12 then can be removed by virtue of the Court's
13 indication that in Exhibits 56 and then the
14 supplemental responses in 58, to the extent there's
15 any answer, only the answers would be admitted.

16 JUDGE SIPPEL: Is Mr. Bowen going to
17 testify?

18 MR. CAMPBELL: He is, Your Honor.

19 JUDGE SIPPEL: All right. Well, I'll
20 permit it to be used for purposes of cross
21 examination, but, you know, under the restrictions
22 that you all have been pointing out. Facts only.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So 56, Tab 56 is identified as Exhibit 56
2 and received in evidence as Complainants's Exhibit 56
3 for the limited purposes indicated.

4 (Whereupon, the document referred
5 to was marked as Complainants'
6 Exhibit No. 56 for identification
7 and was received in evidence.)

8 JUDGE SIPPEL: And we're up to now 57.
9 Fifty-seven?

10 MR. COOK: Your Honor, could I ask one
11 clarification? When you say for the limited purposes,
12 I assume that to the extent that Mr. Bowen has
13 provided an answer and it's unobjected to, that that
14 is an admission; we may use that as an admission of
15 the party and in full capacity, whether cross or what
16 have you, in referencing in our legal briefs or what
17 have you. Is that --

18 MR. SEIVER: Our proposed findings.

19 MR. COOK: Exactly.

20 MR. SEIVER: I'm glad Mr. Cook brought
21 that up. If it's an answer and it's not objected to,
22 I think we're allowed to use it as we see fit.

1 JUDGE SIPPEL: I can't see any problem
2 with that.

3 MR. LANGLEY: No, I don't think there is
4 a problem with that, but I think what that also
5 suggests is that maybe the proper use for whatever
6 answers are in there is that they be read into
7 evidence at some point, almost like you'd read the
8 deposition of a party in, and that way we don't
9 clutter the record with all of the objections or
10 questions that were not answered for whatever reasons.

11 JUDGE SIPPEL: Well, I see your point. I
12 see where you're going on that, but I think that this
13 is clear enough. I mean, the document is not all that
14 lengthy and convoluted that looking for a finding of
15 admission and cites it to an exhibit with a page and
16 a paragraph number, it should be fairly readily
17 available to check that out. I don't see that that's
18 a problem.

19 MR. SEIVER: Thank you, Your Honor.

20 So that would apply to, Your Honor, if you
21 did it as Tab 56 and 58 are together because 58 is the
22 supplemental responses to the interrogatories.

1 JUDGE SIPPEL: Right, right. Okay.
2 That's exactly right.

3 Now, let me rule on these. Fifty-seven is
4 just a request for documents, right?

5 MR. SEIVER: Correct, Your Honor, as is
6 59.

7 JUDGE SIPPEL: Okay. All right. Let me
8 see if I can say it this way then. With respect to
9 Tabs Nos. 56 and 58, which have answers to
10 interrogatories, these are marked for identification
11 and received in evidence as Complainants' 56 and 58.
12 With respect to Tabs 57 and 59, these are marked for
13 identification as Complainants' 57 and 59. These,
14 however, are requests for documents, and these are
15 rejected.

16 (Whereupon, the documents
17 referred to were marked as
18 Complainants' Exhibit Nos. 57
19 through 59 for identification.
20 Exhibit No. 58 was received in
21 evidence, and Exhibit Nos. 57 and
22 59 were rejected from evidence.)

1 JUDGE SIPPEL: Let's move to 60 and
2 anything more.

3 MR. SEIVER: Yes, Your Honor.

4 MR. CAMPBELL: Your Honor, before we move
5 on -- I'm sorry, Mr. Seiver -- with respect to 56 and
6 58, the limitations that you have described hold as
7 well, correct? Facts only was the limitation.

8 JUDGE SIPPEL: Yes, oh, yes. Yes, yes,
9 facts only.

10 MR. SEIVER: And, Your Honor, maybe it
11 will help. Sixty-one, again, is the second
12 supplemental responses to interrogatories. So that
13 would be within the same concept as 56 and 58.

14 MR. LANGLEY: Same objection, but I think
15 we understand your ruling.

16 MR. SEIVER: So if Your Honor wanted to
17 take care of 61 on the same grounds.

18 JUDGE SIPPEL: Where am I on 60? What do
19 I have on 60?

20 MR. SEIVER: I was skipping 60. That was
21 the itemization of evidence, but since 61 were
22 interrogatory answers, I thought I'd close up.

1 JUDGE SIPPEL: All right. Then Tab 60,
2 are you withdrawing it or where did --

3 MR. SEIVER: Well, 60 was the itemization
4 of evidence. We felt chronologically that was an
5 important one to be added in, but it's included in the
6 case, and based on Your Honor's earlier rulings, I
7 believe you would sustain their objection to that.

8 JUDGE SIPPEL: I would.

9 MR. SEIVER: We'll ask for it to be in.
10 They'll object, and you'll sustain.

11 JUDGE SIPPEL: I'm just looking for what
12 the state of it is. All right. You've given me the
13 state of it. I am going to reject it, and this is Tab
14 No. 60. It's marked for identification as
15 Complainants' No. 60, which is an itemization of
16 evidence. That's rejected for the reasons stated
17 before.

18 Sixty-one, however, Tab 61 is identified
19 as Complainants' Exhibit 61, and it is received in
20 evidence as 61, which are answers to interrogatories
21 with the same limitations.

22 MR. LANGLEY: And, Your Honor, is that

1 subject to our same objection? Our objection was
2 noted to 61?

3 JUDGE SIPPEL: Objection is noted to 61,
4 yes, sir.

5 (Whereupon, the documents
6 referred to were marked as
7 Complainants' Exhibit Nos. 60 and
8 61 for identification. Exhibit
9 No. 60 was rejected from evidence
10 and Exhibit 61 was received in
11 evidence.)

12 JUDGE SIPPEL: Now, we're up to 62.

13 MR. SEIVER: Well, Your Honor, given your
14 ruling, I believe you'll reject 62 and 63, which are
15 our responses on document requests.

16 JUDGE SIPPEL: Right.

17 MR. SEIVER: And 64 is a motion to compel.
18 Again, even though it was a motion to compel responses
19 to the interrogatories where they're repeated within,
20 I believe that under your prior ruling that should
21 come out.

22 JUDGE SIPPEL: Right.

1 MR. SEIVER: So 62, 63, and 64 I
2 understand you would sustain an objection to.

3 JUDGE SIPPEL: Right.

4 MR. SEIVER: Sixty-five is one of your
5 discovery orders, which I believe is the law of the
6 case, and we do not need that in as a substantive
7 exhibit if Your Honor prefers to keep his orders
8 separate.

9 JUDGE SIPPEL: That's right. Keep it out.
10 Sixty-six?

11 MR. SEIVER: Sixty-six, again, is a motion
12 to compel with another discovery order, and 67.
13 Sixty-eight is Gulf's motion to reconsider. Sixty-
14 nine is Complainants' motion to compel, and then the
15 third discovery order in 70.

16 So I believe if Your Honor wanted to take
17 62 through 70, that you would sustain Gulf's
18 objections to those exhibits.

19 JUDGE SIPPEL: Exactly. So let me just
20 make a ruling on that. Documents in Tab 62 through 70
21 are marked for identification as Complainants' Exhibit
22 62 through 70, and each of those exhibits for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 identification is rejected, and that brings us up to
2 71.

3 (Whereupon, the documents
4 referred to were marked as
5 Complainants' Exhibit Nos. 62
6 through 70 for identification and
7 were rejected from evidence.)

8 MR. CAMPBELL: Your Honor, just for
9 purposes of clarity of the record, we have our same
10 objections on the documents, that they are
11 inadmissible hearsay.

12 JUDGE SIPPEL: The ones that I rejected?

13 MR. CAMPBELL: Yes, sir.

14 JUDGE SIPPEL: Very well. So noted.

15 Seventy-one.

16 MR. SEIVER: Seventy-one and 72, Your
17 Honor, are Complainants' motion to dismiss, as well as
18 Gulf Power's response to Complainants' motion to
19 dismiss. Being pleadings in the case, we understand
20 that that would be objected to and sustained as well.

21 MR. CAMPBELL: That would be our same
22 objection.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 JUDGE SIPPEL: Same ruling.

2 MR. SEIVER: And seventy-three is
3 Complainants' responses to Gulf's second set of
4 interrogatories, and given the fact that we are not
5 pursuing it from our angle, we'll just withdraw
6 Exhibit 73, Your Honor.

7 JUDGE SIPPEL: Got it. Okay, and then
8 we're back into substantive matters picking up with
9 74; is that right?

10 MR. SEIVER: Yes, Your Honor. Do you want
11 to --

12 JUDGE SIPPEL: Yes, I'm going to rule. I
13 just want to find out where I -- I don't want to take
14 a running start unless I know where I'm going to stop.

15 Okay. Documents Tab 71 through 73, 71,
16 72, and 73, are marked for identification as
17 Complainants' Exhibits 71, 72 and 73, and they are
18 rejected in evidence as Complainants' 71, 72, and 73,
19 except 73 is withdrawn. Seventy-one and 72 are
20 rejected.

21 (Whereupon, the documents
22 referred to were marked as

1 Complainants' Exhibit Nos. 71
2 through 73 for identification.
3 Exhibits 71 and 72 were rejected
4 from evidence, and Exhibit 73 was
5 withdrawn.)

6 JUDGE SIPPEL: And next is 74?

7 MR. SEIVER: Yes, Your Honor.

8 JUDGE SIPPEL: Okay. Thank you. Let's
9 move on.

10 MR. SEIVER: Exhibit 74 through 77 are
11 four exhibits which are not objected to, we
12 understand, by Gulf Power, which are similar to other
13 agreements. There's a pole attachment agreement
14 between Gulf and a school district in Escambia County;
15 letters between different attachers and Mr. Bowen and
16 others at Gulf Power; another letter concerning
17 payments; and more correspondence between Adelphia
18 Business Solutions and Gulf Power.

19 If Your Honor recalls, Adelphia Business
20 solutions was one of the agreements, and I believe
21 some of the bills or documents related to them were
22 admitted in Gulf's part of the case.

1 So 74 through 77 are asked to be admitted
2 into evidence.

3 JUDGE SIPPEL: Any objection?

4 MR. LANGLEY: No objection.

5 JUDGE SIPPEL: Tabbed Documents 74 through
6 77 are identified as Complainants' Exhibits 74 through
7 77, and Complainants's Exhibits 74, 75, 76, and 77 are
8 received in evidence.

9 (Whereupon, the documents
10 referred to were marked as
11 Complainants' Exhibit Nos. 74
12 through 77 for identification and
13 were received in evidence.)

14 JUDGE SIPPEL: Okay. Next?

15 MR. SEIVER: Your Honor, the next two can
16 be looked at together. They are objected to by Gulf,
17 as our understanding. Exhibit 78 is an order by the
18 Public Service Commission of Florida with respect to
19 Gulf Power for March 2005, and 79, again, is an order
20 of the same agency that has an impact on Gulf Power,
21 dated February 27, 2006. Both of these are orders
22 that the experts in our proceeding looked at and we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 believe are relevant to Gulf Power's contentions in
2 this case as to costs and other aspects of its pole
3 plant which it has put into evidence in its
4 proceeding.

5 JUDGE SIPPEL: Who's going to object? Mr.
6 Campbell, are you going to handle this?

7 MR. CAMPBELL: Your Honor, this is the
8 first time we've heard the proffer, but with that
9 proffer, I'm uncertain as to the appropriate
10 foundation. They are hearsay documents. To the
11 extent that they are somehow legally binding or have
12 some impact on Gulf Power Company, that's a legal
13 argument that Mr. Seiver can make, but I don't
14 understand that they should come into evidence.

15 Again, this is similar to some of the
16 arguments that we've previously had. I would also
17 note that that doesn't exclude, of course, their right
18 to cross examine an expert on those issues or for an
19 expert who would ordinarily rely upon hearsay to talk
20 about them, but they do not come into evidence.

21 MR. SEIVER: Your Honor, I don't think
22 there's been any dispute as to the authenticity of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 these documents or the completeness of the documents,
2 and we think Your Honor could, as with some of the
3 other pleadings -- not pleadings, but the other
4 decisions take judicial notice of these, and to the
5 extent that there's any weight to be accorded them,
6 that will be up to either us through cross examining
7 witnesses or in our trial brief.

8 MR. CAMPBELL: Let me be clear about the
9 foundation objection that I'm making. It is not an
10 authenticity objection. It is that we are not going
11 to litigate the foundation of that proceeding in this
12 proceeding to understand the development of that
13 record for purposes of the Public Service Commission
14 arriving at that order.

15 You know, they can cross examine about it.
16 If a witness has knowledge about it, perhaps they can
17 establish a foundation, but it's not here now. It's
18 not in the record now. It's not in any of the
19 prefiled written direct sufficient to give us that
20 record necessary to prove that that document is
21 reliable and has any bearing on this proceeding.

22 JUDGE SIPPEL: This one I did exercise

1 discretion in taking judicial notice of some maybe
2 adjudicative facts, but they were much, much closer
3 related to this case.

4 This is too remote. The objection is
5 sustained, and the documents which are Tabs 78 and 79
6 as described by Mr. Seiver are marked for
7 identification as Complainants' 78 and 79, but they
8 are rejected as not being relevant to this proceeding.

9 (Whereupon, the documents
10 referred to were marked as
11 Complainants' Exhibit Nos. 78 and
12 79 for identification and were
13 rejected from evidence.)

14 JUDGE SIPPEL: Your next is Tab 80?

15 MR. SEIVER: Yes, Your Honor. This is a
16 document that our expert, Patricia Kravtin, did note
17 that she had relied on, and I don't believe there was
18 an objection to it for its admissibility for what it's
19 worth about what she used it for.

20 JUDGE SIPPEL: Competitive growth. Any
21 objection?

22 MR. LANGLEY: Your Honor, we do object to

1 this one, and frankly, this is not one that we had
2 intended to object to, but after hearing the arguments
3 and the ruling on our APPA work book, we are going to
4 have to object.

5 If the APP work book cannot come in as a
6 document relied upon by an expert, a study of the
7 congestion at the Madrid airport from an organization
8 that I've never heard of certainly should not come in
9 either.

10 JUDGE SIPPEL: Well, what do you say to
11 that, Mr. Seiver?

12 MR. SEIVER: Well, Your Honor, I guess
13 what's good for the goose is good for the gander.

14 JUDGE SIPPEL: All right. Nothing further
15 on that. Tab 80 is the competitive and sustainable
16 growth study for whatever program, and it's identified
17 as Complainants' Exhibit 80, but it is rejected for
18 the same reasons as we did the other trade association
19 study.

20 (Whereupon, the document referred
21 to was marked as Complainants'
22 Exhibit No. 80 for identification